IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8191 of 2006

Ajay Dhirubhai Khakkar .. Petitioner

versus

The Chief Officer, Mahabaleshwar Hill

Station Municipal Council,Mahabaleshwar .. Respondents

...

Mr.Rahul Kadam i/b Uday Warunjikar for the petitioner

CORAM : D.G. KARNIK, J

DATED : 30th August 2007.

P.C.:

1. Mr.Rahul Kadam appears for petitioner on instruction by Mr.Warunjikar, Advocate on record.

2. Heard the counsel.

3. This Writ Petition is directed against the order dated 21st August 2006 passed by the learned Adhoc Addl. Sessions Judge, Satara rejecting petitioner’s application for condonation of delay in

filing of a revision against the decision of a Judicial Magistrate, First Class in an House Tax Appeal.

4. The petitioner challenged the levy of a tax and/or a bill for house tax issued by the Mahabaleshwar Municipal Council by filing House Tax Appeal no.16 of 2001 before the Judicial Magistrate. The appeal was decided on 18th May 2004. The petitioner filed a revision against the said decision on 2nd February 2005 with an application for condonation of delay of nearly eight months. By the impugned order the request for condonation of delay was rejected.

5. Learned counsel for the petitioner submitted the decision in the Tax Appeal was rendered during May vacation and therefore the petitioner was not aware of the same. The decision could not have been rendered by the Magistrate in summer vacation and he had no power to do so. It may be noted that the Tax Appeal did not lie to the Civil Judge, Jr. Division but lay to the Judicial Magistrate, First Class. The Magistrate's courts are working in the month of May, and do not enjoy summer vacation. Therefore, the grievance that the decision was rendered in the summer vacation without authority has to be rejected.

5. As regards the contention that the petitioner was not aware of the decision, I called upon the petitioner's Advocate to point out from the pleadings on how and when the petitioner became aware of the decision of the Magistrate. Learned counsel for the petitioner could not point out any averment regarding the date on which he became aware of the decision nor could he point out the occasion when the petitioner visited the court for ascertaining the decision. In fact, there is even no averment that the learned Magistrate had not notified the date of decision at the conclusion of hearing. Thus, the argument that the petitioner was not aware of the decision also cannot be accepted.

6. I see no error in the decision of the learned Sessions Judge holding that the petitioner has not satisfactorily explained the delay. Writ Petition is accordingly rejected summarily.

(D.G. KARNIK, J)